

Final

**STERLING PLANNING BOARD  
MEETING MINUTES**

**May 29, 2013**

Room 202 - Butterick Bldg

**Present:** Ronald Pichierri – Chairman, ANR Agent  
Michael Radzicki – Vice Chairman, MRPC Rep.  
Kenneth Williams – Clerk  
Charles Hajdu  
John Santoro  
Lucinda Oates – Administrative Assistant

Chairman Pichierri calls the meeting to order at 7:02 PM.

**ANR's.**

There are no ANR's

**MINUTES APPROVED**

**Motion: Ken Williams**

**Second: Mike Radzicki**

Motion made to approve the Sterling Planning Board minutes of May 8, 2013 as corrected; there was no further discussion, five to zero in favor, motion carried.

**DISCUSSIONS/REPORTS/FYI**

Mike Radzicki attended the MRPC meeting (May 28<sup>th</sup>) and together with the committee worked on the budget.

**ZBA**

Notice was given that an application has been filed with the Sterling Board of Appeals by Dennis Jenks for a modification of a Special Permit issued October 15, 1968. The property was granted a special permit in 1968 for the warehousing and distribution of farm supplies. Buildings are constructed for warehousing and cross docking of rail cars and loading tractor trailers from 1968 to 2011. Farm supply business deteriorated to the extent that farm supply operations terminated. Relief can be granted without materially altering special permit saw the only change in the original permit is to allow general commodities as well as farm equipment and supplies in all other respects the operation of the facility would remain the same on property owned by Cornerview Properties, LLC. And situated on the Northerly side of Clinton Road and Pratts Junction Road known as number 150 Clinton Road in said Sterling shown in the Assessors Map Plan Book as Map/Lot #69/1 & 69/2 and being zoned Commercial. No further action was deemed necessary by the Planning Board.

**CHAIRMAN'S REPORT**

There is no chairman's report.

**ADMINISTRATIVE ASSISTANT REPORT**

The Town of Sterling adopted the Computer Usage Policy at the last annual town meeting of May 13, 2013. All employees and board members are asked to read the policy and sign the "Computer Usage Policy Acknowledgment" document, stating that they recognize and understand that the information technology resources of the town are to be used in a manner consistent with conducting town business as outlined in the policy. This acknowledgement will be filed with the personnel department.

**Patten RE: ANR Plan**

Chairman Pichierri opened the informal meeting with Don and Janice Patten, 3 Hazelhurst Way at 7:15 pm, to discuss the March 27, 2013 approved ANR plan of Gary Griffin, Sholan Homes, INC. for Redstone Place.

John A. Shea, with the law firm of Lian, Zarrow, Eynon, Shea & Spofford, 34 Mechanic Street, Worcester, MA 01608 and representing the Patten family addressed the board. The issue brought for discussion is the abandonment of Redstone Place. Mr. Shea attended the previous meeting of the Planning Board held on May 8, 2013 and provided documents at that time pertaining to the abandonment of Redstone Place. Mr. Shea, representing the Pattens returned to this meeting to continue a discussion outside of the Public Hearing application for Sholan Homes, INC.

Mr. Shea provided a copy of the February 17, 1958 Annual Report, Article 43 – voted to abandon the old road from the residence of Duncan Rice to Redstone Place. Duncan Rice's parcel was located at the southerly end of Redstone Place. There was a town vote in 1958 to remove that portion.

An ANR plan was also provided, drawn by Hannigan Engineering, 14 Monument Square, Suite 301, Leominster, MA 01453, and endorsed July 31, 1996 by board member June Williams. Mr. Shea directed the board to the notation on the bottom left side of the ANR plan which stated, according to records available at the Town of Sterling, Redstone Place accepted to end of Olson property.

A public hearing was held in the Town of Sterling, May 19, 1992, on the petition of Don and Janice Patten for a variance. At that time board member Michael Sanders, Board of Appeals, asked when the Pattens bought the second parcel of land. Mr. Patten answered in 1987. Mr. Sanders asked if they were aware that it was an abandoned road. Mr. Patten answered yes.

The decision of Town of Sterling Zoning Board of Appeals was to grant the requested variance with the following stipulation:

## Final

Number 26-40 Redstone Place contains 13.898 acres but does not have the required frontage for one house lot, as lots along Redstone Hill Road were sold by the petitioner's grandfather James Patten prior to zoning 1957 and the Town meeting vote in 1958 to abandon the adjoining section of Redstone Place leaving only 36.9 feet of frontage on Redstone Hill Road.

Mr. Shea then provided copies of two affidavits, both dated 29 May 2013. One was received from Peter Tosi, who served on the Town of Sterling Planning Board, in 1958 thru 1975, and was present at the February 15, 1958 Annual Town Meeting, and voted to abandon the unpaved portion of Redstone Place, to that portion of Redstone Place at the most northerly end, where the pavement ended by the Olson property.

Additionally, an affidavit from Norman Clemence, who served as Building Inspector for the Town of Sterling for the same period of time and who was aware that a portion of Redstone Place was abandoned by the town at the 1958 Annual Meeting, being that portion Redstone Place from the Rice property at the southerly end to the end of pavement to the northerly end by the Oslon property. As a result of the fact, that portion of Redstone Place had been abandoned; Mr. Clemence denied an application by Don and Janice Patten for a building permit using frontage on Redstone Place.

Mr. Shea stated that he felt that the ANR, for Gary Griffin, dba Sholan Homes, INC., 33 Main Street, Sterling, MA. 01564, plan for property located on Assessor's Map 91, Lot #30, which consists of four lots meeting area requirement of neighborhood residential zoning, each lot 0.5 acre with the required 125 foot frontage on an existing town road, Redstone Place should not have been approved and should be rescinded, that clearly the road had been abandoned back in 1958.

Gary Griffin responded that after researching town records he feels that Redstone Place has never been abandoned.

The Board thanked the Pattens and Mr. Shea for the information and would take the issue under advisement and would consult with town council.

### **Senior Center Design & Building Committee**

Jack Chandler, Co-Chairman Senior Center Site Committee, addressed the Board in regards to comments, regarding site location, made at the May 13, 2013 Annual Town Meeting, that he felt were detrimental to the Senior Center, and asking the board to try to right that wrong. In question, was the vote taken at the Planning Board meeting. A consensus opinion was given that the Planning Board did not favor the site. The Planning Board had concerns about several issues at the site.

The Planning Board was the only board that responded to the letter, dated April 2, 2012, from the Senior Center requesting information on the site. The Planning Board did not recommend the center being sited at the suggested location. Chairman Pichierri stated that a consensus opinion was taken, there was no plan submitted by the Senior Center, just a conceptual drawing.

In a letter dated April 16, 2012 addressed to the Senior Center Design & Building Committee, the Planning Board stated that they are not in favor of the choice for a Senior Center on the corner of Muddy Pond and Boutelle Roads and listed other concerns.

Maureen Cranson, Co-Chairman Senior Site Committee, didn't find fault with Mr. Pichierri's opinion of the site, but that opinion should have been made back in May 2012 instead of the forum of the Annual Town Meeting in May 2013. It was also requested that Chairman Pichierri reclude himself from any future votes on the Senior Center projects.

Chairman Pichierri said that he will certainly take the Senior Center concerns under consideration, and will take a vote and will send the results to the Senior Center Committee.

### **Continuation Special Permit Shared Driveway**

Continued Public Hearing for Shared Driveway Special Permit by Gary Griffin was opened by Chairman Pichierri at 8:18 PM. This Public Hearing was continued from the last regularly scheduled meeting of May 8, 2013.

Jamie Rheault, (Whitman & Bingham, Registered Engineer, Land Surveyor and Environmental Planner), representing Gary Griffin, dba Sholan Homes Inc., asked if the board had received any further comments from the town fire chief or department of public works director.

A letter was received May 15, 2013 and then again (same document) on May 22, 2013 from the Sterling Police Department, Chairman Pichierri then read the letter into record.

*To: Sterling Planning Board*

*From: Gary M. Chamberland, Police Chief*

*Date: 10 May 2013*

*Subject: Proposed common driveway plan off Redstone Place*

*As requested, I am submitting comments on the above noted proposal. In general, common or shared driveways potentially are cause for neighbor disputes. Often times these disputes result in calls for service from the police department. Historically, some of the calls we have responded to pertaining to common drives are: parking issues, speeding, snow removal, landscaping, improper storage of vehicles, deliveries, pest control and animal issues as well as others.*

*Our jurisdiction is limited to public safety issues in these cases. If there was a public safety issue, we would immediately address it. More often than not, we refer the parties to seek legal action and consult an attorney. Often times this is unsatisfactory to the complainant since they want immediate resolution to their complaint.*

*Addressing the specific proposal, any parking along the proposed driveway would essentially be cause for concern. The proposed width of the driveway would make it*

## Final

*difficult for emergency apparatus to reach the end of the driveway. This would necessitate the removal of these vehicles immediately by attempting to contact the registered owners or invoke towing. Generally police vehicles can navigate most area; the cause for concern is the fire apparatus. If a member of the fire department informed an officer of the police department that the fire apparatus could not negotiate the driveway, we would take immediate action. I am sure the Fire Chief will address these concerns.*

*Each home needs to be numbered so the addresses can be identified and these numbers should be of the design that they can read at nighttime.*

*Please contact me if you have any further questions or comments.*

Chairman Pichierri read an email, dated May 9, 2013, from Lt. Thomas Kokernak, Sterling Fire Department.

*To clarify the Fire Departments opinion specific to "extend the finished portion of Redstone Place":*

*This would consist of extending the road at its current dimension and standard such that all driveways would be accessible from the street while providing a cul-de-sac or "T" type turn-around feature that could accommodate the ability for fire apparatus to turn around. Such design would include proper radii on corners etc. and I would request a plan review of a stamped design be submitted for the Fire Department prior to its approval.*

Chairman Pichierri suggested that the fire department provide clarification on an opinion on the shared driveway as presented on the plan. In addition, an email will be sent to the Fire Chief to clarify his position.

Chairman Pichierri then read a letter, dated May 29, 2013, from Bill Tuttle, Superintendent, Town of Sterling Department of Public Works.

*To: Planning Board  
From: DPW*

*The DPW Board has no preference regarding improving Redstone Place or, the construction of a common driveway. The only issue was the size of the turnaround which would be the same for either option. In subsequent conversation with Mr. Griffin, he added that he would construct and size this turnaround however we would like.*

*Redstone Place is a very "worn" road so there should be a bond to cover any damage from trucks and equipment. Four houses worth of wear and tear .... \$20,000 should be adequate.*

## Final

Jamie Rheault asked in regards to the bond and the general conditions of surety, is the bond needed to construct the road so that it is passable or is it possible to do a covenant. Chairman Pichierri said that the bond would be held with DWP, and that they will have to work it out with them.

Jamie Rheault said that basically there was nothing new to be presented on the proposed shared driveway at this time. He was waiting for the comments from the fire department to address any concerns they had and to come back with a revised engineering plan based on their recommendations.

Gary Griffin responded to the previous statement that frontage should never have been approved for house lots on unapproved town roadways. The Planning Board did approve such a plan ten years ago in the exact same location. The Planning Board had the same information at that time as it has now; it had the same public records available then as now. Mr. Griffin said that he has spent years and a lot of money researching that road, when it started, what has happened since then, what happened in all the different town meeting, and the records to prove the warrants and votes. The legal status has never changed since 1794. Mr. Griffin feels that his proposed plan is well within the bylaw to develop his property.

Ken Williams read *Section 3.4.2 Zoning Bylaw* - a shared driveway shall not be considered adequate access for any lot created for residential use, except that by Special Permit from the Planning Board, a shared driveway may be determined to provide adequate access to parking spaces for no more than four (4) dwelling units.

Chairman Pichierri questioned the legal frontage on the road and if it exists, but felt that a legal opinion is necessary.

Chairman Pichierri than asked each board member if they were in agreement in obtaining legal opinion to make sure the it is legal frontage and to take the necessary steps to remedy this issue, all members were in agreement with consulting legal opinion.

### **Motion: Mike Radzicki**

### **Second: Ken Williams**

Motion to continue the Public Hearing for the Special Permit for a Shared Driveway presented by Gary Griffin until Wednesday, June 12, 2013 at 8:00 PM, our next regularly scheduled meeting, there was no further discussion, five to zero members in favor to continue, motion carried.

## **Discussion / Reports / FYI**

The Select Board requested the Planning Board's opinion on the sale of property located at Matthew Lane, lot number 27, which is .13 acres to Paul Austin, 26 Matthew Lane, direct abutter to the property.

Chairman Pichierri recommended the following opinion be emailed to the Select Board:

The Planning Board is offering two opinions:

## Final

- 1) The recommendation is that there could be potential problems in the future, therefore give the home owner an easement to cut the grass and maintain the area, and not purchase the property.

**OR**

- 2) The Planning Board does not object to the sale as long there is no building, proper easements are put in place and the property is maintained.

It was also discussed that there was not enough information to make a decision.

Please consult with the DPW on the water easement.

MRPC member appointment was held until the first meeting of the new fiscal year 2014 in July. The Planning Board will also hold the election of new board positions at that meeting.

MRPC Traffic Study Recommendation; the recommendation was that there was no recommendation.

An email was received from Scott Ricker, Reli-Abilities, an access advocate for ADA (American with Disabilities Act) stating that the Sterling Ice Cream parlor is not fully wheelchair accessible. The email was sent to the Planning Board, but then forwarded to the Building Inspector for review. Lucinda did speak with Matt Murro and he had visited the site and found that the picnic tables were not up to code and he will follow up with the Building Inspector.

Members were made aware of the Open Space Conference which will take place in Ashburnham on June 8; no one was available on that date to attend.

### **ADMINISTRATIVE ASSISTANT REPORT**

Sulkin book binding was held until a time in the future.

After discussion the Human Resource Task Force, the recommendation was to not have the Administrative Assistant work on tasks outside the scope of the Planning Board.

Administrative Assistant informed the board of planned vacation time June 17, 18 and 19, at which time the office will be closed.

### **MAIL**

Miscellaneous mail was reviewed.

**NOTICES FROM OTHER TOWNS**

Notices from other Towns were made available for review and were passed on to the Zoning Board of Appeals.

**INVOICES**

The board members signed an invoice for Haley & Ward for work performed for Cycles Realty, 16 Chockett Road for \$1,653.75, and one for payroll.

**MOTION TO ADJOURN**

**Motion: Mike Radzicki**

**Second: John Santoro**

Motion was made to close meeting, there was no further discussion, five to zero in favor, meeting adjourned at 9:45 PM.

**The next regularly scheduled Planning Board Meeting is June 12, 2013 at 7:00 PM.**

**APPROVED BY:**

---

---

---

---

---